versy to the jury-room is a violation of his duties; N. Y. Code Crim. Proc. §413; *cf. People* v. *Zeiger* (N. Y. 1865) 6 Park. 355; and where evidence of such misconduct can properly be brought before the court, it is grounds for a new trial. *Falls City* v. *Sperry* (1903) 68 Neb. 420, 94 N. W. 529; *Heffron* v. *Gallupe* (1868) 55 Me. 563, But testimony of fellow jurors is generally not receivable, under the rule that jurors shall not be heard to impeach their verdict, *McDonald* v. *Pless* (1915) 238 U. S. 264, 35 Sup. Ct. 783; *Williams* v. *Montgomery* (1875) 60 N. Y. 648; *contra, Crawford* v. *State* (1821) 10 Tenn. 60; *cf. Wright* v. *Illinois, etc. Tel. Co.* (1866) 20 Iowa 195. However, on motion for a new trial, in support of which such evidence is usually adduced, the true question seems to be not the inviolability of certain things said in the jury-room, but the legal effect to be given them in overturning the verdict. 1 Greenleaf, Evidence (16th ed.) §252a. Evidence of the deliberations of the jury seems ineffectual to change the import of the written document, under the parol evidence rule, see *Wright* v. *Illinois, etc. Tel. Co., supra,* at p. 210. But this principle will not apply in the use of jurors as witnesses in contempt proceedings. See *McDonald* v. *Pless, supra,* at p. 269; *Canal Bank* v. *Mayor, etc. of Albany* (N. Y. 1832) 9 Wend. 244, 256. A juror is truly privileged, however, not to have his communications in retirement disclosed without his consent. 4 Wigmore, Evidence §2346. In view of this well-established rule, it is submitted that the evidence of the jurors should have been excluded in the instant case, because of the importance of preserving to jurymen the essential confidence of the inviolability of their communications, *Rex* v. *Brown* (1907) 7 N. S. W. St. Rep. 290; *cf. Woodward* v. *Leavitt* (1871) 107 Mass. 453. To other "overt" acts of jurymen, as drunkenness, this principle will not apply. *Perry* v. *Bailey* (1874) 12 Kan. 539.

LANDLORD AND TENANT—CONSTRUCTION OF LEASES—LIABILITY OF TENANT FOR COST OF ALTERATIONS.—The lessee in the first case covenanted to conform to all laws and ordinances of the city of New York, and not to make any alterations in the premises without the consent of the lessor. In the second case, the lessee covenanted to comply with all laws, orders, *etc.* at his own cost. In each case a fire escape was ordered built by the city authorities. *Held,* in the first case, the landlord could not recover from the tenant the cost of building the fire escape; *Getty* v. *Fitch, Cornell & Co.* (1919) 107 Misc. 404, 177 N. Y. Supp. 691; in the second case, the landlord was entitled to recover. *Cohen* v. *Margolies* (1919) 107 Misc. 480, 177 N. Y. Supp. 694.

The instant cases follow a line of New York decisions which construe such covenants in a lease strictly in favor of the lessee. *Cf. Kalman* v. *Cox* (1905) 46 Misc. 589, 92 N. Y. Supp. 816. Thus a general covenant to repair at the lessee's cost does not include the making of structural changes, *Younger* v. *Campbell* (1917) 177 App. Div. 403, 163 N. Y. Supp. 609, nor of repairs not reasonably within

the contemplation of the parties, *Street* v. *Central Brewing Co.* (1905) 101 App. Div. 3, 91 N. Y. Supp. 547, nor of alterations required by a change of municipal policy effected subsequent to the making of the lease; *Herald Square Realty Co.* v. *Saks & Co.* (1915) 215 N. Y. 427, 109 N. E. 545; and the courts will infer the intention of the parties from a consideration of all the clauses in the lease. *City of N. Y.* v. *U. S. Trust Co.* (1906) 116 App. Div. 349, 101 N. Y. Supp. 574; *Epstein* v. *Saviano* (1906) 51 Misc. 28, 99 N. Y. Supp. 910. In view of this policy, the instant cases are probably correctly decided, although it is noteworthy that in the first case the court said that the issue was whether the landlord was bound to make the "structural changes" ordered, and in the second held that the erection of fire escapes did not constitute "structural changes" as the term had been applied in "some of the cases". The court, however, distinguished the cases on the ground that to "conform" implied mere passivity, while to "comply" at his own cost imposed on the tenant the active duty of doing the work ordered by the city. Not all courts have taken such a benign attitude towards the tenant as has been usual in those of New York. *Cf. McKinley* v. *C. Jutte & Co.* (1911) 230 Pa. St. 122, 79 Atl. 244; *Poleck* v. *Pioche* (1868) 35 Cal. 416.

OFFICERS—WRONGFUL REMOVAL—LIABILITY FOR DAMAGES.—The plaintiff was discharged from his position in the civil service for political reasons and without a hearing, contrary to the provisions of the Civil Service Law. He was reinstated pursuant to a writ of peremptory mandamus and now sues the officer who removed him for damages. *Held,* the plaintiff may recover the compensation attached to his position from the time of his removal until he was reinstated. *McGraw* v. *Gresser* (N. Y. 1919) 123 N. E. 84.

That the right to hold public office and enjoy its benefits should not be a mere empty privilege was recognized early in the English law. The writs of *quo warranto* and *mandamus* were given to secure it. 2 Bl. Comm. *263. The New York statute simply re-expresses one phase of this well-established principle in prohibiting the removal of certain incumbents from civil service positions without a hearing, with the writ of *mandamus* as remedy. N. Y. Consol. Laws c. 7 (Laws of 1909 c. 15) §22. Not only has the right been recognized, but it has been appreciated that the writ simply operated to reinstate and was not a complete remedy, and hence an action for damages was permitted. In early law an action for money had and received was allowed against one who wrongfully held another's office. *Green* v. *Hewett* (1793) Peake's N. P. 182; see *Boyter* v. *Dodsworth* (1796) 6 Term Rep. 681. In New York a veteran removed from civil service without a hearing may recover his lost compensation from the employing village, township, or city. N. Y. Consol. Laws c. 7 (Laws of 1909 c. 15) §23; *cf. Bryant* v. *Town of Randolph* (1892) 133 N. Y. 70, 30 N. E. 657. There seems to be no reason why the one who committed the wrong should be ex-